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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 CHARLES EDWARD ALLEN,
12 CDCR # D-76353

13 Plaintiff,

14 v.

15 RALPH DIAZ, et al.,

16 Defendants.
17

Case No.: 21cv0602-LAB (RBM)

**ORDER RE REFERRAL NOTICE ON
PLAINTIFF'S IN FORMA PAUPERIS
STATUS ON APPEAL**

18 Before the Court is a referral notice by the Ninth Circuit, dated July 27, 2022,
19 that seeks a determination whether Plaintiff Charles Edward Allen's in forma
20 pauperis ("IFP") status should be continued on appeal or whether the Court finds
21 the appeal to be frivolous or taken in bad faith. (Dkt. 28). Allen filed his notice of
22 appeal of the clerk's judgment in this case on July 22, 2022. (Dkt. 25).

23 "An appeal may not be taken in forma pauperis if the trial court certifies in
24 writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). Rule 24(a) of the
25 Federal Rules of Appellate Procedure provides that:

26 [a] party who was permitted to proceed in forma pauperis
27 in the district-court action, or who was determined to be

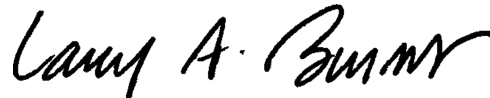
1 financially unable to obtain an adequate defense in a
2 criminal case, may proceed on appeal in forma pauperis
3 without further authorization, unless: (A) the district court—
4 before or after the notice of appeal is filed—certifies that
5 the appeal is not taken in good faith or finds that the party
6 is not otherwise entitled to proceed in forma pauperis and
states in writing its reasons for the certification or finding;
or (B) a statute provides otherwise.

7 Fed. R. App. P. 24(a)(3). For purposes of 28 U.S.C. § 1915, an appeal is frivolous
8 if it lacks any arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325
9 (1989).

10 Upon review of Allen’s notice of appeal, the Court concludes that the appeal
11 is not frivolous or taken in bad faith, and that the IFP status should continue on
12 appeal.

13 **IT IS SO ORDERED.**

14 Dated: July 29, 2022



Honorable Larry Alan Burns
United States District Judge